

In a previous office action response, Applicant elected to proceed with prosecution of claims 1-29 and to cancel claims 35-50 without prejudice.

Claims 1-29 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regard as the invention. The Examiner states that what constitutes "an at least partially fluid medium" in claim 1 is unclear. The Examiner also states that what constitutes "an optical coated fiber" in claim 12 is unclear. The Examiner additionally states that the exact meaning of "at least partially is adjacent to a fluid medium" in claim 29 is unclear.

Claims 1, 3-7, 9, 10, 12-20, 23-27 and 29 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Makower or Edwards et al.

Claims 2, 8, 11, 21, 22 and 28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Makower or Edwards et al. The Examiner notes that Makower and Edwards teach a device as claimed except for the use of platinum band type sensors, thermistor type sensors, resistive heaters or the use of potting compound. The Examiner then states that it would have been obvious to the artisan of ordinary skill to employ the sensors, heaters, electrical material and sensor location with potting compound.

Applicants have amended the claims to overcome the §112 grounds of rejection.

Independent claims 1 and 28 have been amended to claim an apparatus for effecting a change in at least a portion of a selected site of a collagen containing tissue that is adjacent to a fluid medium. The apparatus comprises an energy delivery device including a proximal portion and a distal portion configured to be positioned at an interface between a fluid medium and a selected site of a collagen containing tissue.

In contrast, Edwards et al. teaches a medical probe device comprising a catheter having a stylet guide housing with one or more stylet ports in a side wall thereof and guide means for directing a flexible stylet outward through the stylet port and through intervening tissue. "The stylet is shaped to facilitate easy passage through tissue." See column 5, line 17-18. "The stylet preferably has a sharpened end to reduce resistance and trauma when it is pushed through tissue to a target site." Column 5, lines 25-27.

Edwards et al. does not teach or suggest an apparatus with a distal portion configured to be positioned at an interface between a fluid medium and a selected site of a collagen containing tissue. Accordingly, Edwards et al. does not anticipate the claims of the present application.

Makower teaches a catheter including at least one fiber optic element for delivering laser light from a laser energy source to the area for prostate treatment. The fiber optic element is slidably received in and carried by a hollow needle. The hollow needle has a sharpened distal end in order to

easily mechanically puncture the passageway wall and enter the organ to carry the fiber optic element to the area to be treated. See page 4, lines 18-23.

Makower does not teach or suggest an apparatus with a distal portion configured to be positioned at an interface between a fluid medium and a selected site of a collagen containing tissue. Accordingly, Makower does not anticipate the claims of the present application.


CONCLUSION

It is submitted that the present application is in form for allowance, and such action is respectfully requested.

The Commissioner is authorized to charge any additional fees which may be required, including petition fees, or credit any overpayment to Deposit Account No. 23-2415 (Docket No. 18223-701).

Respectfully submitted,

Date: 4/21/98

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